

PJS:MJB:kas

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

BRIAN STOOPS,	:	Civil No. 1:CV-11-0433
Plaintiff	:	
	:	Hon. John E. Jones III
v.	:	
	:	
WARDEN B. A. BLEDSOE, et al.,	:	
Defendants	:	Filed Electronically

MOTION FOR ENLARGEMENT OF TIME

The United States of America¹ asks the Court for a 30-day enlargement of time, pursuant to Fed. R. Civ. P. 6(b), in which Defendants may respond to Plaintiff's Complaint. In support thereof, the United States avers the following:

1. Plaintiff Brian Stoops (Stoops) is currently incarcerated at the United States Penitentiary in Lewisburg, Pennsylvania (USP-Lewisburg).

¹ The United States of America submits the following motion as the individually named Defendants are presently in the process of obtaining approval for representation by the United States Attorney's Office as set forth in 28 C.F.R. § 50.15, et seq. If and when representation is authorized by the Civil Division, the United States Attorney's Office may then undertake a full and traditional attorney-client relationship with the individual employees.

2. On March 7, 2011, Stoops filed a Bivens² action against nine BOP employees with claims that they failed to protect his safety. (Doc. No. 1, Comp.) He seeks punitive and compensatory damages. (Id.)

3. A 60-day summons was issued by the Clerk of Court on March 10, 2011, and the individual Defendants were served by the United States Marshal Service on March 15, 2011. The United States Attorney's Office was served March 18, 2011. A response to the Complaint, in accordance with Rule 12(a)(3), is currently due May 17, 2011.

4. The Code of Federal Regulations provides, in pertinent part, that

a federal employee . . . may be provided representation in civil, criminal, and Congressional proceedings in which he is sued, subpoenaed, or charged in his individual capacity, . . . when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be in the interest of the United States. . . .

28 C.F.R. § 50.15(a).

5. Section 50.15(a) sets forth the procedures for obtaining representation by a Department of Justice attorney such as the undersigned. In the instant case, each

² Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

of the Defendants was required to submit a written request to the Legal Department at USP Lewisburg, where they are, or formerly were, employed. The Legal Department staff thereafter will process the paperwork and forward it to the Civil Division of the United States Department of Justice in Washington, D.C. 28 C.F.R. § 50.15(a).

6. If and when representation is authorized by the Civil Division, Justice Department attorneys undertake a full and traditional attorney-client relationship with the employee.

7. At this time, Defendants' representation requests have just been fully processed by the Federal Bureau of Prisons and forwarded to the Civil Division for consideration and approval. Without the Civil Division's approval to represent Defendants, the undersigned is unable to prepare an appropriate response to the Complaint on behalf of Defendants.

8. Therefore, the United States requests a 30-day enlargement of time within which to respond to Stoops' Complaint in order that the Civil Division has the opportunity to complete its review of the representation requests and act thereon.

9. The United States submits that Stoops will not be prejudiced by this enlargement of time as it will also allow agency counsel and the undersigned

additional time in which to investigate his allegations and to prepare a response to his Complaint which is thorough and complete in all respects.

WHEREFORE, the United States requests an enlargement of time of 30-days, until June 16, 2011, to respond to the Complaint.

Respectfully submitted,

PETER J. SMITH
United States Attorney

Dated: May 13, 2011

/s Michael J. Butler
Michael J. Butler
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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on May 13, 2011, she served a copy of the attached

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Brian Stoops
05409-025
USP-Lewisburg
PO Box 1000
Lewisburg, PA 17837

s/Kimberly A. Stevens
Kimberly A. Stevens
Paralegal Specialist